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Attorneys for Defendant ARM, Ltd.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

TANADGUSIX CORPORATION, and RON
PHILEMONOFF, JEANETTE MATTHEWS,
ROBERT DEAN HUGHES, BENJAMIN
ENGLISH, LARRY COOPER, AND JOHN
LYONS, TRUSTEES OF THE
TANADGUSIX CORPORATION HEALTH
AND WELFARE TRUST,

Plaintiffs,

v.

ARM, LTD.,

Defendant.

Case No.

**NOTICE OF REMOVAL OF CIVIL
ACTION**

Defendant ARM, Ltd. ("Defendant"), by and through its counsel, files this Notice of Removal of Civil Action (the "Notice of Removal") with respect to that action brought against Defendant by Plaintiffs Tanadgusix Corporation and Ron Philemonoff, Jeanette Matthews, Robert Dean Hughes, Benjamin English, Larry Cooper, and John Lyons, Trustees of the Tanadgusix Corporation Health and Welfare Trust (collectively, "Plaintiffs") in the Superior Court for the State of Alaska Third Judicial District at Anchorage, Case No. 3AN-18-8775-CI (the "State Court Action").

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The grounds in support of this Notice of Removal to Federal Court are as follows:

1. **Procedural Background, Process, Pleadings, and Orders.** On August 21, 2018, Plaintiffs filed their “Complaint By Tanadgusix Corporation and Ron Philemonoff, Jeanette Matthews, Robert Dean Hughes, Benjamin English, Larry Cooper, and John Lyons, Trustees of the Tanadgusix Corporation Health and Welfare Trust” (the “Complaint”) against Defendant in the State Court Action. A true and correct copy of the Complaint is attached as **Exhibit A**. A true and correct copy of the court file in the State Court Action is attached as **Exhibit B**.

2. Plaintiffs completed service of the summons and Complaint on Defendant in the State Court Action no earlier than August 28, 2018. A true and correct copy of Plaintiffs’ Notice of Proof of Service filed with respect to the Complaint in the Alaska state court is attached as **Exhibit C**.

3. No other process, pleadings, or orders have been served upon Defendant.

4. **This Notice is Timely Pursuant to 28 U.S.C. § 1446(b).** This Notice of Removal is being filed prior to the expiration of the thirty (30) day period after the date Defendant was served with or otherwise received a copy of the Complaint and summons.

5. **Complete Diversity of Citizenship Confers Jurisdiction.** The State Court Action may be removed to this Court because it is wholly between citizens of different states and the amount in controversy exceeds \$75,000, exclusive of interest and costs. Therefore, this is a civil action over which the district courts of the United

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States have original diversity jurisdiction pursuant to 28 U.S.C. § 1332, and is one which may be removed to this Court pursuant to 28 U.S.C. § 1441.

6. As alleged in the Complaint, at the time of filing of the State Court Action, the Tanadgusix Corporation was an Alaska corporation organized under the Alaska Native Claims Settlement Act, with its principal offices in Anchorage, Alaska. (Exhibit A, ¶ 1.) Upon information and belief, as of the date of this Notice of Removal, the Tanadgusix Corporation continues to be incorporated in Alaska and has its principal place of business in the State of Alaska.

7. As alleged in the Complaint, at the time of filing of the State Court Action, the Tanadgusix Corporation Health and Welfare Trust (the “Trust”) was an IRS 509(c)(9) voluntary employees’ beneficiary association and trust with its principal business offices in Anchorage, Alaska. (Exhibit A, ¶ 4.) Upon information and belief, as of the date of this Notice of Removal, the Trust continues to be a IRS 509(c)(9) voluntary employees’ beneficiary association and trust with its principal business offices in Anchorage, Alaska.

8. As alleged in the Complaint, at the time of filing of the State Court Action, Ron Philemonoff, Jeanette Matthews, Robert Dean Hughes, Benjamin English, Larry Cooper and John Lyons were current Trustees of the Trust. (Exhibit A, ¶ 3.) Upon information and belief, as of the date of this Notice of Removal, Ron Philemonoff, Jeanette Matthews, Robert Dean Hughes, Benjamin English, Larry Cooper and John
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Lyons are individuals who remain the current Trustees of the Trust, and each of whom is a resident of the State of Alaska.

9. As alleged in the Complaint, at the time of filing of the State Court Action, Defendant was a corporation that was incorporated in the State of Illinois. (Exhibit A, ¶ 8.) As of the date of this Notice of Removal, Defendant remains a corporation that was incorporated in the State of Illinois, and has its principal place of business in the State of Illinois. ARM has at no time had its principal place of business in the State of Alaska and has never been incorporated in the State of Alaska, either at the time of the filing of the State Court Action or at the time of the filing of the Notice of Removal, or otherwise, and did not have any partners or members that were citizens of the State of Alaska at the time of the filing of the State Court Action or at the time of the filing of the Notice of Removal.

10. As alleged in the Complaint, Plaintiffs assert a claim of alleged unjust enrichment against Defendant in the sum of at least \$219,940.67 in connection with payments of fees and costs made by the Trust, for which the Complaint seeks reimbursement of such sum. (Exhibit A, ¶¶ 64-69.)

11. As alleged in the Complaint, Plaintiffs assert a claim against Defendant in connection with alleged unfair and deceptive trade practices in violation of AS 45.40.471, for which the Complaint seeks recovery against Defendant of at least the sum of \$659,822.01. (Exhibit A, ¶¶ 70-76.)

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12. As alleged in the Complaint, Plaintiffs assert a claim against Defendant for alleged punitive damages, for which the Complaint seeks recovery in an amount to be proven at trial, but which upon information and belief may exceed \$75,000.00. (Exhibit A, ¶¶ 77-79.)

13. As alleged in the Complaint, Plaintiffs asserts a declaratory judgment action against Defendant seeking a declaration that Defendant is obligated to defend and indemnify Plaintiffs in connection with a separate lawsuit pending in the United States District Court for the Western District of Texas, which, if granted, would obligate Defendant to incur more than \$75,000.00 in costs and damages. (Exhibit A, ¶¶ 58-63.)

14. Based on Paragraphs 10 through 13 above, it is facially apparent, or more likely than not, that the amount in controversy far exceeds “the sum or value of \$75,000, exclusive of interest and costs.” 28 U.S.C. § 1332.

15. **Notice Filed in the State Court.** Promptly after filing this Notice of Removal, Defendant will provide written notice of removal to Plaintiffs and will file a copy of this Notice of Removal with the Superior Court for the State of Alaska Third Judicial District at Anchorage, as provided by law. A true and correct copy of the Notice of Removal of State Court Action being filed with the Superior Court, is attached hereto as **Exhibit D**.

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WHEREFORE, Defendant ARM, Ltd. respectfully removes the State Court Action to the United States District Court for the District of Alaska.

DATED this 24th day of September, 2018.

STEWART SOKOL & LARKIN LLC

By: /s/ Thomas A. Larkin

Thomas A. Larkin, ASBA #0009055
tlarkin@lawssl.com
Attorneys for Defendant ARM, Ltd.

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of September, 2018, I caused a true and correct copy of the foregoing to be mailed first class mail, postage prepaid, as well as sent via e-mail to the following:

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STEWART SOKOL & LARKIN LLC

By: /s/ Thomas A. Larkin

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